

REMARKS

Applicant respectfully requests entry of this Amendment and reconsideration of the pending claims. Claim 34 is cancelled. Claims 29-33 and 35-38 are currently pending.

Claims 29-33 and 35-38 were rejected under 35 USC § 112 as not being enabled by the specification. Applicant submits that a computer programmer of ordinary skill could implement the system as claimed. There is no requirement that actual code be provided to show enablement.

With regard to claim 29, the claim recites “crude oil processing risk for the problem in the refinery crude oil processing” and the problem relates back to the phrase: “problems previously encountered during the refinery crude oil process”. Clearly, one of ordinary skill in the art would have some idea what problem(s) may have been encountered in the refining of crude oil. It is not reasonable to suggest otherwise. So the “risk” is “for the problem” which is of the type “previously encountered”. All this is contained within claim 29 as written, and is supported by a fair reading of the specification.

Claims 29-33 and 35-38 were rejected under 35 USC § 112 as not omitting essential steps. The Office Action starts to outline the “essential step” and instead asks a question, then two, and then three. No omitted step is identified – possibly because there is no mention of an essential step in the specification to which the Office Action can point. While the Applicant is reluctant to recast the clear wording of the claim, to simplify and make the point, the steps may involve in one non-limiting and paraphrasing instance 1) making a query of a database based on a problem, and the database has information on like problems previously encountered, 2) where the previously-encountered problem was solved by, for example, adding a treatment to the process stream then the system provides the same solution to the current problem that invoked the query. In the foregoing example, some of the claim language was excised for emphasis.

That the Office Action states it is unclear how this happens does not rise to the level of an omission of an essential step. The Office Action goes on to question the how the assessment is made and/or how a treatment is applied. These variables are based on

the application specific parameters for each refinery – a definitive cannot be made, and need not be made. The standard that one of ordinary skill in the art would know how to make such an assessment, or how to treat such a process stream, is based at least in part on previous conduct. The only circumstance where the logic breaks down is in a new refinery that has never been run and has no institutional knowledge with which to create the information classes. However, even there, the required information could be obtained by one of ordinary skill in the art without undue effort or experimentation.

Applicant submits that the currently pending claims are allowable. Applicant requests entry of the amendment to remove issues for an appeal. Should the Examiner believe that anything further is needed, the Examiner is invited to contact the Applicant's undersigned representative at the telephone number below. Any additional fees for the accompanying response are hereby petitioned for, and the Director is authorized to charge such fees as may be required to Deposit Account 07-0868.

Respectfully submitted,

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